



# When Transparency is Meaningless

Stan Abrams, China Hearsay | May 11, 2012, 3:20 AM

Once in a while I wonder how I became so cynical when it comes to politics and trade issues, but then I read something about an upcoming trade deal or the adjudication of a dispute, and my brain tells me “Oh right, that’s why.”

Latest case in point: another excellent column by trade guru [Dan Ikenson, writing in Forbes](#). Ikenson’s topic du jour is the Trans-Pacific Partnership (TPP), a U.S. trade initiative that some, most certainly including Beijing, see as part of a China containment strategy. But put aside the China angle for a moment and consider the issue of whether Japan should join. Ikenson takes us through the US Trade Representative notice and comment process to set the stage, noting the following:

1. USTR received 115 comments from interested parties regarding whether Japan should be in the TPP.
2. Five submissions rejected the idea.
3. Five submissions said OK, but with conditions.
4. One hundred and five offered unequivocal support to the idea.

So support for Japan joining the TPP was, as Ikenson points out, 91%. Surely then the Obama administration would move forward with all due speed, having been given the green light from the “public”?

Ha ha. That’s where the story gets interesting. In fact, the U.S. government has been moving quite slowly. Someone must have put the brakes on this deal. I wonder how we can find out?

Ikenson looked at the five negative comments sent to the USTR for a clue. The commenters were: Humane Society International, the National Marine Manufacturers Association, the Maine Citizen Trade Policy Commission, the Central Union of Agricultural Cooperatives, and the American Automotive Policy Council. Hmm. Would it help if you knew that the last one there on the list was the lobbying group of the big three auto manufacturers?

So these auto companies are obviously throwing their weight around because of competition from Japan. Ikenson also posits that the Big Three are balking at this to curry favor with China. I have no idea which one is more plausible, so I’m not going to opine on that issue.

What’s more interesting to me is the editorial comment Ikenson includes about the whole process and what it says not only about trade policy, but also about government in general. Apologies for the length of the quote, but it’s necessary:

[I]t is to be expected that companies will respond to incentives and if policy is perceived as malleable, the incentive to influence favorable outcomes will motivate companies to lobby. And as entities beholden to the fiduciary duty to maximize profits for shareholders, these companies try to influence the rules to their own advantages. But who's watching over the henhouse here? Policymakers have a responsibility to the public interest, not to specific industries or companies.

What is proper, democratic, or civic-minded about U.S. policy formulated with the views of a few politically-favored companies – companies that are lobbying foreign governments on some of the very same issues – trumping the opinions of a diverse 91 percent of respondent interests? If the goal of trade policy is to deliver the benefits of trade liberalization to a broad cross-section of Americans, then why is there this egregious imbalance of influence on the process? What is the point of collecting comments from the public on such matters, if not just to create the illusions of policy accessibility and transparency? The whole exercise renders trade policy indistinguishable from corporate welfare and gives trade a bad name.

Keep in mind that Ikenson works for The Cato Institute, a libertarian think tank, and that his views on free trade are not exactly lauded by folks on the political left in the U.S. And yet, here he is coming out sounding like an Occupy Wall Street activist, or perhaps the Tea Party, criticizing crony capitalism and the influence of corporate money in trade policy.

One reason I like the quote is that Ikenson is not laying this at the feet of the corporations but at government. This is my position as well. Companies will do what's best for them, and that's OK. It's the responsibility of the government, working on behalf of the public, to prevent those corporate interests from controlling policy making. In other words, the corporations are not "evil," government is just not working properly.

Multinationals have always had a disproportionate influence on trade policy, so this general issue is nothing new. But this illustration of the limits of transparency and administrative procedure should be a reality check for all those folks working hard on rule of law and other initiatives in China. I also worry that as China's economy continues to expand and large domestic companies get larger, their influence and power over the government here will render many "good government" initiatives meaningless.

I've talked to quite a few lawyers, government officials and educators over the years who firmly believe that if China were only to implement some sort of administrative system like we have in the U.S., which includes real transparency and independent judicial review, some of China's serious internal problems could be solved. Many of these ideas have in fact been implemented here.

While I'm in favor of those goals, I have to admit that there are limits to what transparency or a notice-and-comment process can give you. Those things are great if they allow the public to influence the government. However if, as in the case Ikenson discusses, that process is basically ignored by a government that would rather cater to special interests, then what's the benefit? At that point, all that transparency does is let us know who is screwing us over. (That is valuable information, but useless if not acted upon.)

I'm not trying to argue against transparency or open administrative procedures. These are good things, and China has made tremendous progress in the past decade, particularly with respect to the transparency requirements mandated by WTO accession. But as crony capitalism in the U.S. suggests, systemic problems with government can render tough rules and transparency totally meaningless.

A sobering thought for the weekend.

